

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

KEVIN HILLER,
Plaintiff,

v.

A. SOGO, et al.,
Defendants.

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CIVIL ACTION NO. 20-CV-4445

ORDER

AND NOW, this 4th day of August 2021, upon consideration of Plaintiff Kevin Hiller's Motion to Proceed *In Forma Pauperis* (ECF Nos. 2 and 11)¹, Prisoner Trust Fund Account Statement (ECF No. 12), and *pro se* Complaint (ECF No. 1), it is **ORDERED** that:

1. Leave to proceed *in forma pauperis* is **GRANTED** pursuant to 28 U.S.C. § 1915.
2. Kevin Hiller, #60998-066, shall pay the full filing fee of \$350 in installments, pursuant to 28 U.S.C. § 1915(b), regardless of the outcome of this case. The Court directs the Warden of the Federal Correctional Institution at Hazleton or other appropriate official to assess an initial filing fee of 20% of the greater of (a) the average monthly deposits to Hiller's inmate account; or (b) the average monthly balance in Hiller's inmate account for the six-month period immediately preceding the filing of this case. The Warden or other appropriate official shall calculate, collect, and forward the initial payment assessed pursuant to this Order to the Court with a reference to the docket number for this case. In each succeeding month when the amount in Hiller's inmate trust fund account exceeds \$10.00, the Warden or other appropriate official shall forward payments to the Clerk of Court equaling 20% of the preceding month's income

¹ ECF No. 11 was docketed as a motion to seal and motion to proceed *in forma pauperis*; however, the motion to seal was docketed separately at ECF No. 10 and was denied (ECF No. 14). Thus, ECF No. 11 is fully decided.

credited to Hiller's inmate account until the fees are paid. Each payment shall refer to the docket number for this case.

3. The Clerk of Court is directed to **SEND** a copy of this Order to the Warden of the Federal Correctional Institution at Hazleton, where Hiller is presently incarcerated.

4. The Complaint is **DEEMED** filed.

5. For the reasons stated in the Court's Memorandum, Hiller's claims against the Doe Defendants and Defendant Marler are **DISMISSED WITHOUT PREJUDICE** for failure to state a claim pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii).

6. The Clerk of Court is directed to **SEND** Hiller a blank copy of the Court's standard form complaint for prisoners to use to file a complaint bearing the above civil action number.²

7. Hiller may file an amended complaint within **30 days** if he can allege additional facts to state a plausible claim against the Doe Defendants and Defendant Marler. Any amended complaint shall identify all defendants in the caption of the amended complaint in addition to identifying them in the body of the amended complaint, shall state the basis for Hiller's claims against each defendant, and shall bear the title "Amended Complaint" and the case number 20-4445. If Hiller files an amended complaint, his amended complaint must be a complete document that includes all of the bases for Hiller's claims, including claims that the Court has not yet dismissed if he seeks to proceed on those claims. Claims that are not included in the amended complaint will not be considered part of this case. When drafting his amended complaint, Hiller should be mindful of the Court's reasons for dismissing his claims as explained

² This form is available on the Court's website at <http://www.paed.uscourts.gov/documents/forms/frmc1983f.pdf>.

in the Court's Memorandum. Upon the filing of an amended complaint, the Clerk shall not make service until so ordered by the Court.

8. If Hiller does not file an amended complaint the Court will direct service of his initial Complaint on Defendants Sogo, Castillo, and Kistler only. Hiller may also notify the Court that he seeks to proceed on these claims rather than file an amended complaint. If he files such a notice, Hiller is reminded to include the case number for this case, 20-4445.

9. The time to serve process under Federal Rule of Civil Procedure 4(m) is **EXTENDED** to the date 90 days after the Court issues summonses in this case.

BY THE COURT:

/s/ Cynthia M. Rufe

CYNTHIA M. RUFÉ, J.